

Application No. 09/381,696  
Amendment dated November 14, 2005

Docket No.: 22032-00035-US

### REMARKS

Claims 1 and 4-18 are pending. Claims 13-18 remain withdrawn from consideration. Claims 2-3 remain canceled. Claim 1 is amended herein.

#### Claim Amendments

Claim 1 has been amended to state that the first wall member and the second wall member form a "continuous, single-piece casting," instead of stating that the first wall member and the second wall member form a "continuous sliding form casting." The Examiner stated that the latter language is considered a product-by-process limitation. Applicant submits that the amended language is structural and not product-by-process in nature. With regard to the term "casting," a casting has certain structural properties that can be distinguished from other structures. The amended language is clearly supported, for example, by the previous version of claim 1, the specification at page 7, lines 11-13, and Fig. 2.

Claim 1 has also been amended to recite that the upper space "comprises a plurality of part spaces including water pools" as opposed to stating that the upper space "is divided into part spaces forming water-filled pools," in order to overcome 35 U.S.C. §112 rejections issued by the Examiner.

No new matter has been added.

#### Rejections - 35 U.S.C. §112

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1 and 4-12 as lacking written description support under 35 U.S.C. §112, first paragraph.

The Examiner found the previous language in claim 1 stating that the upper space "is divided into part spaces forming water-filled pools" to lack written description support in the specification, because the specification does not disclose the manner in which part spaces can "form" water-filled pools and fails to disclose where the water comes from and whether or not

Application No. 09/381,696  
Amendment dated November 14, 2005

Docket No.: 22032-00035-US

the spaces are always filled with water. Applicant respectfully points out that the rejected claim language is recited nearly verbatim on specification page 8, lines 19-20, and that a written description-type rejection is therefore unwarranted. Nonetheless, the language in question has been amended to recite that "the upper space comprises a plurality of part spaces including water pools." One of ordinary skill in the nuclear reactor art would certainly understand how to construct the claimed structure based on Applicant's disclosure.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1 and 4-12 as lacking enablement under 35 U.S.C. §112, first paragraph.

The Examiner found the previous language in claim 1 stating that the upper space "is divided into part spaces forming water-filled pools" to lack enablement in the specification. As stated above, Applicant has amended claim 1 to recite that "the upper space comprises a plurality of part spaces including water pools." One of ordinary skill in the nuclear reactor art would certainly understand how to construct the claimed structure based on Applicant's disclosure.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1 and 4-12 as being indefinite under 35 U.S.C. §112, second paragraph.

The Examiner stated that the previous language in claim 1 stating that the upper space "is divided into part spaces forming water-filled pools" is indefinite. Again, Applicant has amended this language to state that "the upper space comprises a plurality of part spaces including water pools." Applicant submits that this language is sufficiently clear to satisfy the requirements of 35 U.S.C. §112, second paragraph.

#### Rejections - 35 U.S.C. §102

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1 and 6-12 under 35 U.S.C. §102(b) as being anticipated by Kleimola (U.S. Patent No. 4,050,983).

Application No. 09/381,696  
Amendment dated November 14, 2005

Docket No.: 22032-00035-US

In order for anticipation to exist, a reference must teach each and every element of a claimed invention. "The identical invention must be shown in as complete detail as is contained in the... claim". *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Claim 1, as amended, recites a reactor containment formed by a first wall member defining an inner space, and an upper space located above the reactor containment and defined by a second wall member. Amended claim 1 further recites that the first wall member and the second wall member "form a continuous, single-piece casting." Kleimola does not teach or suggest a first wall member that forms a reactor containment and defines an inner space, and a second wall member that defines an upper space above the reactor containment, *wherein the first and second wall members form a continuous, single-piece casting*. As there is no teaching in Kleimola as to how the reactor containment is produced, a person skilled in the nuclear reactor art would believe that the reactor containment employs the conventional construction of an assembly of separate concrete pieces. Since Kleimola fails to teach or suggest every element of claim 1, claims 1 and 6-12 are not anticipated.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1, 6-8 and 10-12 under 35 U.S.C. §102(b) as being anticipated by Gluntz (U.S. Patent No. 5,511,102).

Gluntz also fails to teach or suggest a first wall member that forms a reactor containment and defines an inner space, and a second wall member that defines an upper space above the reactor containment, *wherein the first and second wall members form a continuous, single-piece casting*. Gluntz is silent as to the construction of the reactor containment, and therefore one skilled in the nuclear reactor art would believe that the reactor containment employs the conventional construction of an assembly of separate concrete pieces.

Furthermore, Gluntz does not teach that the reactor containment has an essentially circular cross-sectional shape, as recited in claim 1. Gluntz states that the reactor containment should have an annular suppression or wet pool 22 that surrounds the reactor pressure vessel. The word "annular" merely indicates that the suppression or wet pool 22 extends around the

Application No. 09/381,696  
Amendment dated November 14, 2005

Docket No.: 22032-00035-US

reactor pressure vessel, and does not indicate an essentially circular cross-section. FIG. 1 of Gluntz, which refers to the prior art, merely shows one longitudinal section through the reactor containment. Gluntz does not provide any information about the shape of any other longitudinal sections of the reactor containment or the shape of any cross-sections.

For at least the above reasons, Gluntz does not anticipate claims 1, 6-8 and 10-12.

Rejections - 35 U.S.C. §103

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 2-3 under 35 U.S.C. §103(a) as being unpatentable over Kleimola or Gluntz in view of Harstead (U.S. Patent No. 4,175,005). In order for a claimed invention to be obvious, all of the claim recitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 974). The Examiner relied on Harstead for a teaching of pre-stressed tendons. However, Kleimola and Gluntz do not teach or suggest the nuclear reactor device of claim 1 for the reasons set forth above. Harstead also fails to teach or suggest the elements of claim 1 that are not disclosed by Kleimola and Gluntz. Therefore, claims 2-3, which depend from claim 1, are patentable over the asserted combination of Harstead with Kleimola or Gluntz.

Response to Examiner's Comments in Advisory Action

In the Advisory Action dated September 22, 2005, the Examiner stated that the language in claim 1 (as amended in the unentered amendment filed on September 12, 2005) pertaining to the water-filled part spaces was merely a statement of intended use. Applicant submits that the present language in claim 1 stating that the upper space "comprises a plurality of part spaces including water pools" is structural language rather than a statement of intended use.

Application No. 09/381,696  
Amendment dated November 14, 2005

Docket No.: 22032-00035-US

*Conclusion*

It is requested that the foregoing be considered when examining the accompanying RCE application. In view of the above amendment, Applicant believes the pending application is in condition for allowance.

If a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 22032-00035-US from which the undersigned is authorized to draw.

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Respectfully submitted,



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